

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0468-01
Bill No.: HB 0038
Subject: Alcohol, Crimes and Punishment, Drivers Licenses, Motor Vehicles
Type: Original
Date: January 16, 2001

FISCAL SUMMARY

ESTIMATED NET EFFECT ON STATE FUNDS			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
General Revenue	\$0	\$0	(\$27,919)
Highway Funds	(\$34,293)	\$42,977	\$55,438
Total Estimated Net Effect on <u>All</u> State Funds	(\$34,293)	\$42,977	(\$27,519)

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
Cities	\$8,430	\$24,961	\$27,864
Counties	\$5,621 to (Unknown)	\$16,641 to (Unknown)	\$18,576to (Unknown)
Local Government	\$14,051 to (UNKNOWN)	\$41,602 to (UNKNOWN)	\$46,440 to (UNKNOWN)

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 10 pages.

FISCAL ANALYSIS

ASSUMPTIONS

Officials from the **Department of Health, Office of Administration, Division of Budget and Planning**, the **Department of Mental Health**, and the **Office of the Attorney General** assume no impact to the agency.

Officials of the **Missouri Department of Transportation (MoDOT)** assume that this proposal would have no direct fiscal impact on their agency. However, they advise that according to the National Highway Traffic Safety Administration, a state must pass several new statutory provisions in order to remain eligible for full federal highway funding. MoDOT officials stated their belief that HB 38 does not comply with the federal mandate and therefore, Missouri runs the risk in FY 2004 of losing \$8.1 million in federal highway construction funds.

Because these financial penalties are prospective and would result from the failure of the state of Missouri to act timely, **Oversight** has excluded these amounts from the fiscal impact.

Officials of the **Department of Public Safety, Division of Highway Safety** assume the proposal would make the state eligible for incentive grants from the National Highway Traffic Safety Administration, and estimate the amount available at approximately \$3 million per year if it is enacted.

Because these potential financial incentive grants penalties are prospective and dependent on actions of other states and the federal government, **Oversight** has excluded these amounts from the fiscal impact.

Officials of the **State Public Defender (SPD)** assume that existing staff could provide representation for those 50 - 75 cases arising where indigent persons were charged with "driving while intoxicated at .08%." However, passage of more than one similar bill would require the State Public Defender System to request increased appropriations to cover the cumulative cost of representing the indigent accused.

Officials of the **Office of State Courts Administrator (CTS)** assume there will be some increased in the number of DWI and BAC cases filed; however, the number would not be great enough to impact the budget of the judiciary.

In response to previous versions of this proposal, officials of the **Office of Prosecution Services** assumed this proposal would have no fiscal impact to their agency.

ASSUMPTIONS - continued:

Based on a response from a similar proposal in 1999, officials of the **Department of Corrections (DOC)** assume the language that describes the vehicular homicide offense in this proposal is similar to that in current Section 565.024 that describes involuntary vehicular manslaughter, which is punishable as a class C felony. The DOC received 14 persons over a three-year period (1994-96, inclusive) for involuntary vehicular manslaughter or an average of five per year. The average prison stay over those three years for those offenders prior to release was 30 months. DOC officials assume any fiscal impact from this proposal in FY's 01 and 02 could be absorbed within existing resources.

DOC officials stated the penalty provision for the new crime would be for a class B felony with a minimum incarceration time of 10 years. To estimate the potential impact, the DOC reviewed release information over a three-year period (1994-96, inclusive) for persons sentenced for voluntary manslaughter, (a class B felony involving similar criminal conduct). Over those three years these offenders served an average 57.5 months, including releases to shock probation. The effect of the ten-year minimum sentence required under this legislation was assumed to raise the average prison stay to 72 months. The estimated impact was predicated on the DOC receiving 5 commitments per year who would serve 72 months rather than 30 months in prison for a similar offense. DOC officials would expect three extra inmates due to this statute, resulting in total anticipated cost of \$27,919 in FY03.

The DOC cannot predict the number of new commitments and/or supervision costs which could result from the lowering of the BAC outlined in this proposal. An increase in commitments depends on the utilization by prosecutors and the actual sentences imposed by the court. If additional persons are sentenced to the custody of the DOC due to the provisions of this legislation, the DOC would incur a corresponding increase in operational costs either through incarceration (average of \$35.00 per inmate, per day) or through supervision provided by the Board of Probation and Parole (average of \$3.50 per offender, per day). Supervision by the DOC through probation or incarceration would result in some additional costs but it was assumed that the estimated impact would be minimal and could be absorbed for the offenses affected by lowering the BAC criteria.

ASSUMPTIONS - continued:

Based on assumptions outlined below, the long-range fiscal impact is as follows:

	End FY Population	Average Population	Operating Expenses	Total Cost w/ Inflation
FY 2004	8	6	76,650	86,270
FY 2005	13	11	140,525	162,907
FY 2006	18	16	204,400	244,064
FY 2007	18	18	229,950	282,809
FY 2008	18	18	229,950	291,294
FY 2009	18	18	229,950	300,033
FY 2010	18	18	229,950	309,034
		Total Ten-Year	Fiscal Impact:	\$ 1,704,330

Oversight assumes, based on the prior response from DOC, that the fiscal impact previously stated for FY 03 will now be effective in FY 04. The costs to DOC have been adjusted accordingly.

Oversight assumes there would be unknown income to municipalities from the forfeiture provisions in this proposal. Oversight also assumes that local jail populations could be affected by mandatory sentencing outlined in this proposal, and have shown the fiscal impact to be \$0 to (unknown).

Officials of the **Department of Revenue (DOR)** assume the following:

This proposal lowers the blood alcohol content threshold for driving while intoxicated, driving with excessive blood alcohol content, and administrative alcohol actions to .08%. Lowering the minimum excessive alcohol threshold will result in additional arrests for driving while intoxicated and subsequently will result in additional license suspension documentation to be sent to the Driver and Vehicle Services Bureau (formerly known as the Drivers License Bureau).

ASSUMPTIONS - continued:

These increases will result in the following increased workloads in the Driver and Vehicle Services Bureau:

<u>Work Process</u>	<u>Volume of Increase</u>
Administrative Alcohol Arrest Documentation =	3,826
Alcohol Related Convictions =	2,406
Notices of Suspension/Revocation =	6,232
Reinstatement Notices =	4,241
Correspondence Inquiries =	<u>1,122</u>
Total Increased Documentation for Processing:	17,827

In order to process this increased documentation **the Driver and Vehicle Services Bureau will require one additional FTE (clerk typist II)**. The requested Clerk Typist II position will be responsible for responding to correspondence inquiries, entering arrest and conviction data, reinstatement fees, proof of insurance (required for reinstatement), and alcohol education completion certificates into automated computer systems. **Oversight** assumes the additional clerk typist duties could be absorbed with existing resources.

POSTAGE

The Driver and Vehicle Services Bureau will require additional postage funding as a result of an estimated 11,595 documents required to be mailed. This documentation includes notices of suspension/revocation, notices of reinstatement, and responses to correspondence inquiries.

Additional postage funding will also be required in order to facilitate the reprinting of Alcohol Influence Reports (form DOR-2389) and the Notice of Suspension/Revocation (form DOR-2385) which is given to the offender at the time of arrest.

The Driver and Vehicle Services Bureau will distribute 100,000 of each of these forms to law enforcement agencies throughout the state. Postage for this distribution of forms is estimated to be \$3,100.

Oversight assumes DOR could absorb the cost of postage for the flyers, and has excluded such costs from the fiscal impact.

ASSUMPTIONS - continued:

FORMS

The Driver and Vehicle Services Bureau will be required to modify two forms in order to identify the appropriate reduction in the blood alcohol content threshold and the increased penalties for driving while intoxicated. This will require reprinting of Alcohol Influence Reports (form DOR-2389) and the Notice of Suspension/Revocation (form DOR-2385) which is given to the offender at the time of arrest.

The Driver and Vehicle Services Bureau will distribute 100,000 of each of these forms to law enforcement agencies throughout the state. Costs for reprinting these forms are estimated to be \$6,000.

Oversight assumes DOR could absorb the cost of production of the forms, and has excluded such costs from the fiscal impact.

REVENUE INCREASE

Additional suspension and revocation actions will be imposed as a result of lower blood alcohol content threshold.

The Driver and Vehicle Services Bureau estimates 4,241 additional reinstatements annually. This estimate is based on statistics obtained from the Missouri Drivers License (MODL) System.

Fiscal Year 2002 estimates are based on only three months calculations for administrative alcohol and point accumulation suspensions. This is due to the requirement of a one month notice prior to enforcement of the suspension, a two month suspension period, and a four month period of restricted driving prior to reinstatement. In addition, the effective date of this legislation is assumed to be August 28, 2001 which reduces the total months in the fiscal year to ten months.

Administrative alcohol license revocations are also not calculated in fiscal year 2002 or 2003 as these actions are two year sanctions. The first administrative alcohol revocations will not be eligible for reinstatement until August 28, 2003 under this assumption (FY 2004).

ASSUMPTIONS - continued:

FY 02

2,094	Administrative Alcohol Suspensions
<u>1,171</u>	Point Accumulation Suspensions
3,265	Total Suspension Reinstatements
3,265	Total Suspension Reinstatements
<u>/ 12</u>	Months per Year
272	Suspension Reinstatements per Month
<u>x 3</u>	Months of Eligible Reinstatement for Suspensions
816	Total Suspension Reinstatements for FY02
<u>+ 433</u>	Point Accumulation Revocations Reinstatements
1,249	Additional Reinstatements for FY02
<u>x \$45</u>	Reinstatement Fee
\$56,205	Total Increased Reinstatement Fee Collection FY02

FY 03

3,265	Total Suspension Reinstatements
<u>+ 433</u>	Total Point Revocation Reinstatements
3,698	Total Reinstatements for FY03
<u>x \$45</u>	Reinstatement Fee
\$166,410	Total Increased Reinstatement Fee Collection for FY03

FY 04

514	Total Administrative Alcohol Revocations Reinstatements Annually
<u>/ 12</u>	Months per Year
43	Administrative Alcohol Revocations Reinstatements per Month
<u>x 10</u>	Number of Months Administrative Revocations are Eligible for Reinstatement
430	Total Administrative Revocation Reinstatements for FY 04
3,265	Total Suspension Reinstatements
<u>+ 433</u>	Total Point Revocation Reinstatements
4,128	Total Reinstatements for FY04
<u>x \$45</u>	Reinstatement Fee
\$185,760	Total Increased Reinstatement Fee Collection for FY04

ASSUMPTIONS - continued:

FEE DISTRIBUTION

FY 02

\$42,152	Highway Fund
\$8,430	Cities
\$5,621	Counties

FY 03

\$124,808	Highway Fund
\$24,961	Cities
\$16,641	Counties

FY 04

\$139,320	Highway Fund
\$27,864	Cities
\$18,576	Counties

General Counsel's Office

The General Counsel's Office assumes the same impact as the Driver and Vehicle Services Bureau (16.7% increase in arrests). The General Counsel's Office expects an increase in the number of hearings requested as a result in the lower blood alcohol threshold. The immediate impact is expected to be more significant as more individuals will challenge the legitimacy of lower alcohol threshold and whether or not an individual is impaired at the lower limit. This will require three additional Legal Counsels and one Clerk Typist III in order to process the additional administrative hearings that are associated with the increased number of arrests.

This FTE request is based on current administrative hearing volumes statewide. Nearly half of all hearings are held in the metropolitan areas of Kansas City and St. Louis. One additional Legal Counsel will be needed in each of these areas to absorb the additional hearings that will be requested. The remaining Legal counsel will be used out of the Jefferson City office and will be required to travel to many regions of the state to absorb additional hearing volumes statewide.

The requested Clerk Typist III will be responsible for docketing hearings, scheduling hearings, and preparing hearing documentation.

Oversight assumes that one General Counsel and one Clerk Typist II could handle the additional workload, consistent with DOR's response to a similar proposal in the prior session. The costs to DOR have been adjusted accordingly.

ASSUMPTIONS - continued:

<u>FISCAL IMPACT - State Government</u>	FY 2002 (10 Mo.)	FY 2003	FY 2004
GENERAL REVENUE FUND			
<u>Cost - Department of Corrections (DOC)</u>	\$0	\$0	(\$27,919)
Increased incarcerations			
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>\$0</u>	<u>\$0</u>	<u>(\$27,919)</u>

HIGHWAY FUNDS

<u>Income - Department of Revenue</u>			
Reinstatement fees	\$42,152	\$124,808	\$139,320
<u>Cost - Department of Revenue</u>			
Personal Service	(\$49,250)	(\$60,578)	(\$62,092)
Fringe Benefits	(\$16,415)	(\$20,190)	(\$20,695)
Expense and Equipment	<u>(\$10,780)</u>	<u>(\$1,063)</u>	<u>(\$1,095)</u>
Total cost	<u>(\$76,445)</u>	<u>(\$81,831)</u>	<u>(\$83,882)</u>
ESTIMATED NET EFFECT ON HIGHWAY FUNDS	<u>(\$34,293)</u>	<u>\$42,977</u>	<u>\$55,438</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2002 (10 Mo.)	FY 2003	FY 2004
Cities			
Revenue - Reinstatement fees	\$8,430	\$24,961	\$27,864
Counties			
Revenue - Reinstatement fees	\$5,621	\$16,641	\$18,576
Cost - Increased jail population	(0 to unknown)	(0 to unknown)	(0 to unknown)
ESTIMATED NET EFFECT ON LOCAL GOVERNMENT	<u>\$14,051 to (UNKNOWN)</u>	<u>\$41,602 to (UNKNOWN)</u>	<u>\$46,440 to (UNKNOWN)</u>

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

DESCRIPTION

This bill would lower Missouri's current excessive BAC standard from .10 to .08, change Missouri's anti-consumption law to an anti-possession law as regards to operation of a motor vehicle and would increase jail times and require either impoundment of a motor vehicle or installation of an ignition interlock device on motor vehicles of repeat offenders.

This legislation is federally mandated; however, it would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Health
Office of Administration
Department of Mental Health
Office of the Attorney General
Department of Transportation
Department of Public Safety
State Public Defender
Office of State Courts Administrator
Office of Prosecution Services
Department of Corrections
Department of Revenue



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Director
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